

Exhibit V Cause #

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Constitutional Law

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IV. Construction of Constitutions

A. General Rules of Construction

§ 66. Reading constitution as a whole; giving effect to every word and part

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 597 to 599

A constitution must be read and considered as a whole,¹ and every provision must be read in light of other provisions relating to the same subject matter.² In construing individual sections, the constitution must be read as a whole, considering other sections that may shed light on the provision in question.³ A constitutional provision should be construed as a whole in order to ascertain the general purpose and meaning of each part.⁴ A constitutional provision should not be construed in isolation but as it relates to and interacts with other constitutional provisions.⁵

Courts strive to give effect to every word of a constitutional provision.⁶ Each word of a constitutional phrase informs a proper understanding of the whole.⁷ Courts must assume that every word contained in a constitutional provision has effect, meaning, and is not mere surplusage.⁸

An elementary rule of construction is that, if possible, effect should be given to every part and every word of a constitution⁹ unless there is some clear reason for doing so.¹⁰ In construing constitutional provisions, the supreme court will attempt to give meaning to every word, phrase, and sentence, and, if necessary, it will attempt to reconcile and harmonize potentially conflicting provisions.¹¹ In interpreting a constitutional provision, each word, phrase, clause, and sentence must be given meaning so that no part will be void, inert, redundant, or trivial.¹² Unless there is some clear reason to the contrary, no portion of the fundamental law should be treated as superfluous, meaningless, or inoperative.¹³ It is a basic rule of construction that a constitutional provision should be construed to make all its parts harmonize and to give a sensible and intelligent effect to each part as it is not presumed that the legislature intended that any part would be without meaning.¹⁴ Courts must favor a construction of a constitution that

will render every word operative rather than one that may make some words meaningless or nugatory.¹⁵ Every clause in a state constitution must be given its due force, meaning, and effect with no word or section assumed to have been unnecessarily used or needlessly added, and a court must presume the language was carefully weighed, and its terms imply a definite meaning.¹⁶

The legal intendment is that every word¹⁷ and every clause has been inserted for some useful purpose¹⁸ and, when rightfully understood, has some practical operation.¹⁹

When possible, the interpretation of a constitutional provision will be harmonized with other provisions to avoid unreasonable or absurd results.²⁰ Every effort should be made to construe constitutional provisions harmoniously, and no provision should be construed to nullify or impair another.²¹ Apparently conflicting provisions of a constitution²² or ambiguous provisions should, if possible, be construed harmoniously.²³

Observation:

The rule favoring the harmonization of different constitutional provisions has been applied not only to provisions of the same constitution but also to provisions of a state constitution and the United States Constitution; in this context, it has been held that where a provision of a state constitution is capable of two constructions, one of which would be in conflict with the United States Constitution, the other must be adopted.²⁴

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Footnotes

- 1 [Pritchett v. Spicer](#), 2017 Ark. 82, 513 S.W.3d 252 (2017); [Gatzke v. Weiss](#), 375 Ark. 207, 289 S.W.3d 455 (2008); [Halverson v. Secretary of State](#), 124 Nev. 484, 186 P.3d 893 (2008); [In re Request for Advisory Opinion from House of Representatives \(Coastal Resources Management Council\)](#), 961 A.2d 930 (R.I. 2008).
Because constitutions are adopted as a whole, the whole instrument is to be examined with a view to arriving at the true intent of each part. [Barrett v. Tennessee Occupational Safety and Health Review Com'n](#), 284 S.W.3d 784 (Tenn. 2009).
Constitutions are not to be interpreted according to the words used in particular clauses, as the whole must be considered, with a view to ascertain the sense in which the words were employed, and its words must be taken in their ordinary and common acceptance because they are presumed to have been so understood by the framers and by the people who adopted it. [Roskelly v. Lamone](#), 396 Md. 27, 912 A.2d 658 (2006).
- 2 [Pritchett v. Spicer](#), 2017 Ark. 82, 513 S.W.3d 252 (2017).
Effective constitutional interpretation requires that the court view the constitution as a whole, construing provisions in context with other relevant provisions. [Gregg v. Rauner](#), 2018 IL 122802, 429 Ill. Dec. 437, 124 N.E.3d 947 (Ill. 2018).
- 3 [Pestka v. State](#), 493 S.W.3d 405 (Mo. 2016).
- 4 [Ford v. Browning](#), 992 So. 2d 132 (Fla. 2008).
- 5 [Johnson v. Tenth Judicial Dist. Court of Appeals at Waco](#), 280 S.W.3d 866 (Tex. Crim. App. 2008).
- 6 [TABOR Foundation v. Regional Transportation District](#), 2018 CO 29, 416 P.3d 101 (Colo. 2018).

- 7 Town of Boone v. State, 369 N.C. 126, 794 S.E.2d 710 (2016).
- 8 Pestka v. State, 493 S.W.3d 405 (Mo. 2016).
- 9 Pendleton School Dist. 16R v. State, 345 Or. 596, 200 P.3d 133, 241 Ed. Law Rep. 423 (2009); Jubelirer v. Rendell, 598 Pa. 16, 953 A.2d 514 (2008).
All constitutional provisions enjoy equal dignity, and a fundamental rule of construction requires construction of every clause or section of a constitution consistently with its words to protect and guard its purposes. National Pride At Work, Inc. v. Governor of Michigan, 274 Mich. App. 147, 732 N.W.2d 139, 220 Ed. Law Rep. 832 (2007), judgment aff'd, 481 Mich. 56, 748 N.W.2d 524 (2008).
- 10 Voters for Responsible Retirement v. Board of Supervisors, 8 Cal. 4th 765, 35 Cal. Rptr. 2d 814, 884 P.2d 645 (1994).
- 11 State v. Strom, 2019 ND 9, 921 N.W.2d 660 (N.D. 2019).
- 12 Cain v. Horne, 220 Ariz. 77, 202 P.3d 1178, 242 Ed. Law Rep. 435 (2009).
- 13 Martin v. Humphrey, 2018 Ark. 295, 558 S.W.3d 370 (2018).
- 14 Goldberg v. State, 282 Ga. 542, 651 S.E.2d 667 (2007).
- 15 Patterson Recall Committee, Inc. v. Patterson, 209 P.3d 1210 (Colo. App. 2009).
- 16 Riley v. Rhode Island Dept. of Environmental Management, 941 A.2d 198 (R.I. 2008).
- 17 Havens v. Board of County Com'rs of County of Archuleta, 924 P.2d 517 (Colo. 1996).
- 18 Succession of Lauga, 624 So. 2d 1156 (La. 1993); City of Pawtucket v. Sundlun, 662 A.2d 40, 102 Ed. Law Rep. 235 (R.I. 1995).
- 19 In re Great Outdoors Colorado Trust Fund, 913 P.2d 533 (Colo. 1996).
- 20 We People Nevada ex rel. Angle v. Miller, 124 Nev. 874, 192 P.3d 1166 (2008).
- 21 In re Request for Advisory Opinion Regarding Constitutionality of 2005 PA 71, 479 Mich. 1, 740 N.W.2d 444 (2007).
Whenever possible, constitutional provisions should be read to coexist so that both may stand and be operative. In re Request for Advisory Opinion from House of Representatives (Coastal Resources Management Council), 961 A.2d 930 (R.I. 2008).
- 22 Serrano v. Priest, 5 Cal. 3d 584, 96 Cal. Rptr. 601, 487 P.2d 1241, 41 A.L.R.3d 1187 (1971); State v. Muhammad, 145 N.J. 23, 678 A.2d 164 (1996).
- 23 State v. Pavao, 81 Haw. 142, 913 P.2d 553 (Ct. App. 1996).
- 24 Kruidenier v. McCulloch, 258 Iowa 1121, 142 N.W.2d 355 (1966), opinion supplemented, 261 Iowa 1309, 158 N.W.2d 170 (1968).

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